

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)
Plaintiff,) No. 3:08-CR-11
V.) (VARLAN/SHIRLEY)
MARIO MELGAR and)
JOSE ALBERTO AGUIRRE,)
Defendants.)

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This criminal action is before the Court on defendant Jose Alberto Aguirre's Motion to Suppress Statements [Doc. 37] and defendant Aguirre and defendant Mario Melgar's Joint Motion to Suppress Evidence. [Doc. 38] On July 30, 2008, the Court initiated an evidentiary hearing on the two motions, but the hearing was adjourned prior to its conclusion after defendant Aguirre's counsel discovered a possible legal conflict in their representation of the defendant. Defense counsel investigated the legal conflict, resulting in the withdrawal of one of defendant Aguirre's attorneys, Richard Gaines, but leaving defendant Aguirre with two non-conflicted attorneys, Randall Reagan and John Passanante. [Doc. 49] After the resolution of the legal conflict, the Court conducted multiple status conferences, during which the defendants asked to delay the resumption of the evidentiary hearing to allow the parties time to continue settlement discussions.

On October 14, 2008, attorney Reagan advised chambers that defendant Aguirre was withdrawing his motions to suppress. Accordingly, defendant Aguirre's motion to suppress statements [Doc. 37] is hereby **DENIED as moot**. Similarly, the parties' joint motion to suppress evidence [Doc. 38] is **DENIED as moot** as to defendant Aguirre, but remains pending as to defendant Melgar. The Court will resume the evidentiary hearing as to defendant Melgar's motion to suppress evidence [Doc. 38] on November 6, 2008, as previously scheduled.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge